

**MINUTES OF THE REGULAR MEETING
OF THE DULUTH CITY COUNCIL**

January 26, 2015

Duluth City Council meeting held on Monday, January 26, 2015, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Filipovich, Fosle, Gardner, Hanson, Julsrud, Krug, Russ, Sipress and President Larson -- 9

Absent: None -- 0

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The minutes of council meetings held on July 10, 14, 21, August 18 and 25, 2014, were approved upon a unanimous vote.

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

15-0126-11 Dulce Proud communication regarding the proposed request for abutting landowners on Park Point to have the right of first refusal to buy select tax forfeited land (15-0068R). -- Received

15-0126-01 Storage King Properties, by John Bray, attorney, appeal of the denial for a stormwater utility fee adjustment, pursuant to Duluth City Code Section 43-67 (4514 Rice Lake Road). -- Committee 3 (public works and utilities)

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REPORTS FROM OTHER OFFICERS

15-0126-02 Clerk applications for exempt permits to the Minnesota gambling control board from: (a) Ducks Unlimited at UMD on March 6, 2015 (raffle); (b) Lincoln Park Business Group on June 20, 2015 (raffle); (c) National Kidney Foundation on July 30, 2015 (raffle); (d) Rocky Mountain Elk Foundation "Head of the Lakes" on March 26, 2015 (raffle); (e) St. John the Evangelist Church on March 12, 2015 (raffle); (f) St. Mary, Star of the Sea Catholic Church on: (1) March 29, 2015 (bingo, raffle); (2) November 22, 2015 (bingo, raffle); (g) St. Michael's Church on March 8, 2015 (bingo) and October 25, 2015 (bingo, raffle). -- Received

15-0126-03 Parks and recreation division manager rental agreements with Donald Rodrick Kuchenbecker and Benjamin David Kimmes for the Chester Bowl Apartments, pursuant to Section 2-35 of the Duluth City Code. -- Mayor for execution

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REPORTS OF BOARDS AND COMMISSIONS

15-0126-04 Alcohol, gambling and tobacco commission minutes of: (a) September 3; (b) October 1; (c) November 5, 2014, meetings. -- Received

15-0126-09 Duluth public utilities commission minutes of November 18, 2014, meeting. -- Received

15-0126-07 Duluth Seaway Port authority minutes of: (a) June 27; (b) July 31; (c) August 28; (d) September 25; (e) October 30, 2014, meetings. -- Received

15-0126-05 Parks and recreation commission minutes of November 5, 2014, meeting. -- Received

15-0126-06 Planning commission minutes of December 9, 2014, meeting. -- Received

15-0126-08 Spirit Mountain recreation area authority minutes of December 18, 2014, meeting. -- Received

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REPORTS OF COUNCIL COMMITTEES

15-0126-10 City council Lakewalk task force final report. -- Received

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At this time, 7:03 p.m., the public hearing on the proposed confirmation of the Lakeview Avenue sanitary sewer extension assessment roll, was called to order.

Lin Xiu spoke of her need for more information on this assessment and requesting a response from her prior inquiries.

At this time, 7:07 p.m., the public hearing was closed and the regular order of business was resumed.

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Richard Bronson, trustee of St. John's Free Lutheran Church, presented materials (Public Document No. 15-0126-31) and spoke of his concerns that the city is requiring landscaping trees to be planted on their property.

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RESOLUTION TABLED

Councilor Russ moved to remove Resolution 15-0014, vacating a railroad spur easement on Lot 12, Block 1, Oneota Industrial Park, running between First and Second streets West, from the table, which motion was seconded and carried unanimously.

Resolution 15-0014 was adopted as follows:

RESOLVED, that:

(a) The city council finds a sufficient petition was filed with the city requesting the vacation described in (d) below; and

(b) Pursuant to Section 100 of the City Charter and Section 50-37.6 of Chapter 50 of the Duluth City Code, as amended, such petition was duly referred to the city planning commission and such commission gave due notice of public hearing and did consider same in public hearing and the city planning commission found that the portion of the railroad spur easement is useless for all purposes; and

(c) The city planning commission, at its Tuesday, December 9, 2014, regular meeting, recommended approval of the vacation petition; and

(d) The city council of the city of Duluth approves the vacation of the platted road easement described below and as described and depicted on Public Document No. 15-0126-12:

VACATION LEGAL DESCRIPTION:

All that part of the 25 foot wide railroad spur easement lying within Lot 12, Block 1 of ONEOTA INDUSTRIAL PARK, according to the recorded plat thereof, St. Louis County, Minnesota; and

(e) That the city clerk is, pursuant to Section 100(b)(7) of the Home Rule Charter of the city of Duluth, 1912, as amended, authorized to record, with the register of deeds and/or the registrar of titles of Saint Louis County, Minnesota, a certified copy of this resolution and Public Document No. 15-0126-12 showing the platted easement to be vacated.

Resolution 15-0014 was unanimously adopted.

Approved January 26, 2015

DON NESS, Mayor

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MOTIONS AND RESOLUTIONS

CONSENT AGENDA

(All matters listed under the consent agenda were considered routine and/or non-controversial and were enacted by one unanimous motion.)

President Larson moved passage of the consent agenda, which motion was seconded and unanimously carried.

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement substantially in the form on file in the office of the city clerk as Public Document No. 15-0126-13, with the Lake Superior Center, dba Great Lakes Aquarium, in an amount not to exceed \$360,000, payable from Tourism Taxes 258, Finance 030, Tourism Tax Allocation 5436, Great Lakes Aquarium 08.

Resolution 15-0041 was unanimously adopted.

Approved January 26, 2015

DON NESS, Mayor

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RESOLVED, that the city desires to renew the Joint Powers Agreement 20604 with the Duluth entertainment and convention center (DECC) authority for the operation of the Minnesota Slip pedestrian draw bridge during year 2015 for a total amount not to exceed \$37,276.14, payable from Tourism Taxes 258, Finance 030, Contract Services 5310.

Resolution 15-0051 was unanimously adopted.

Approved January 26, 2015

DON NESS, Mayor

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RESOLVED, that city and U.S. Bank National Association (U.S. Bank) entered into a lease agreement on or about June 1, 1999, (City Contract No. 18435) for the lease of space in the Technology Village parking ramp.

FURTHER RESOLVED, the parties desire to amend the agreement to (i) authorize subleasing of space to P.S. Rudie Clinic, (ii) define and clarify common maintenance charges, and (iii) update general terms and conditions.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to execute an amendment to the lease agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 15-0126-14.

Resolution 15-0052 was unanimously adopted.

Approved January 26, 2015

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to implement a one-year extension of the city's annual contract with Liscomb Hood Mason Company for property insurance from February 16, 2015, through February 16, 2016, covering city-owned structures, miscellaneous equipment and business personal property, based on a revised quote of \$119,500 and substantiated in a memo from city claims adjuster Don Douglas on file in the office of the city clerk as Public Document No. 15-0126-15, and payable from the following accounts: Self Insurance Fund 610, Department/Agency 036 (insurance accounts), Cost Center 1651 (insurance-general city), Cost Center 1652 (insurance - water and gas), Cost Center 11653 (insurance - sewer), Cost Center 1654 (insurance - stormwater) and Cost Center 1656 (insurance - DEDA), Object 5360 (insurance).

Resolution 15-0064 was unanimously adopted.

Approved January 26, 2015

DON NESS, Mayor

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RESOLVED, that city officials are hereby authorized to contract with Titan Machinery, Inc., for OEM parts and labor as requested by fleet services in year 2015, for an estimated total amount of \$120,000, payable as follows:

\$80,000 - Fleet Services 660, Public Administration 015, Equipment Repair Supplies 5221;

\$40,000 - Fleet Services 660, Public Administration 015, Equipment/ Machinery Repair and Maintenance 5404.

Resolution 15-0025 was unanimously adopted.

Approved January 26, 2015

DON NESS, Mayor

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RESOLVED, that city officials are hereby authorized to contract with Ziegler, Inc., for OEM parts and labor as requested by fleet services in year 2015, for an estimated amount of \$120,000, payable as follows:

\$80,000 - Fleet Services 660, Public Administration 015, Equipment Repair Supplies 5221;

\$40,000 - Fleet Services 660, Public Administration 015, Equipment/ Machinery Repair and Maintenance 5404.

Resolution 15-0026 was unanimously adopted.

Approved January 26, 2015

DON NESS, Mayor

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RESOLVED, that city officials are hereby authorized to enter into an agreement with New World Systems, substantially in the form of that on file in the office of the city clerk as Public Document No. 15-0126-16, for the purchase, implementation and maintenance of fire records management software. The total amount of \$258,885 is broken down as follows: \$203,760 AEGIS/MSP fire records application software and implementation; \$18,000 training and travel expenses; \$37,125 SSMA - two year maintenance agreement (see Exhibit A of Public Document No. 15-0126-16); payable from Capital Equipment 250; Public Administration 015; Fiscal Year 2015; 2015 Capital Equipment 5580; Project: CE250-E1504; Capital Equipment Fund 250, fire programs replacement.

Resolution 15-0065 was unanimously adopted.

Approved January 26, 2015

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into a three year service agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 15-0126-17, with the Duluth Superior Area Community Foundation related implementation of the community parks and recreation program, in the amount of 2.5 percent of the total grant distributed in any contract year but not to exceed \$2,500 in any contract year, payable from Fund No. 205-130-1219-5310 (parks fund, community resources department, parks operating division, contract services).

Resolution 15-0056 was unanimously adopted.

Approved January 26, 2015

DON NESS, Mayor

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RESOLVED, that the proper city officials are authorized to make the following fund transfers totaling \$12,085 from the 2013 CDBG program and enter into amendments to increase the 2014 CDBG grant agreements as set forth below:

2013 CDBG Program

Fund 262, Agency 020, Object 5434, Project CD13CD

Project	Program	Original Budget	New Grant	Difference
PSVC	Coordinate Homeless In-take	12,085	0	(12,085)

2014 CDBG Program

Fund 263, Agency 020, Object 5434, CD14CD

Project	Activity	Grantee	Original Budget	New Grant	Difference
PSVC	1974	Life House	20,000	21,500	1,500
PSVC	1226	Center City	26,000	27,500	1,500
PSVC	2509	Safe Haven	45,000	46,500	1,500
PSVC	2511	Salvation Army	12,000	13,500	1,500
PSVC	2109	MACV	15,000	16,500	1,500
PSVC	1050	AICHO	3,000	4,500	1,500
PSVC	1244	CHUM	72,000	73,500	1,500
HOUS	1734	HRA	860,077	861,662	1,585

ALSO RESOLVED, that the proper city officials are authorized to enter into a joint contract to provide funding for the placement of homeless families and individuals into permanent housing and to ensure these households remain stably housed for six months.

2014 CDBG Program

Fund 262, Agency 020, Object 5434, Project CD14CD

Project	Activity	Program	Amount
PSVC	14-PS-10	Housing and stabilization services fund	49,025

(Grantees to receive funding under a joint contract are Churches United in Ministry, American Indian Community Housing Organization, Minnesota Assistance Council for Veterans, The Salvation Army, Center City Housing Corporation, Safe Haven Shelter for Battered Women and Life House Incorporated.)

Resolution 15-0060 was unanimously adopted.
 Approved January 26, 2015
 DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to accept the dedication of a utility easement from Larry M. Udesen and Leann M. Udesen, joint tenants, in the form of Public Document No. 15-0126-18, on file in the office of the city clerk, dedicating to the general public a 20-foot wide utility easement over the property described therein running between Valley Drive and the alley providing public access to the city utilities at no cost to the city.

Resolution 15-0029 was unanimously adopted.
 Approved January 26, 2015
 DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to execute a forbearance agreement, substantially the same as that on file in the office of the city clerk as Public Document No. 15-0126-19, with Troy M. And Melissa A. Hendrickson, that delays the connection of the following property to a city watermain:

The Westerly One-half of the Westerly One-half of the Northeast Quarter of the Southeast Quarter (W 1/2 of W 1/2 of NE 1/4 of SE 1/4) of Section 4, Township 50 North, Range 14 West of the Fourth Prime Meridian;

Street address: 2221 Norton Road, Duluth, Minnesota 55803.
Resolution 15-0045 was unanimously adopted.
Approved January 26, 2015
DON NESS, Mayor

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RESOLVED, that Contract No. C22185 with Veit & Company, Inc., for Seven Bridges Road realignment and slope repairs be amended to include additional work of hauling excavated material offsite, electrical wiring for the Lester Park Ski Trail, unexpected rock excavation and additional soil erosion control and bituminous pavement in the amount of \$103,173.95 for a new total of \$476,172.95, payable from Disaster Recovery Fund 225, Department 125 (finance), Division 1803 (roads and bridges), Object 5403 (street repair and maintenance), City Project Number 1113, flood sites 24 and 378.

Resolution 15-0050 was unanimously adopted.
Approved January 26, 2015
DON NESS, Mayor

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WHEREAS, pursuant to Resolution 12-0636, the city council approved the rate calculation attached thereto; and

WHEREAS, Ever-Green Energy, LLC, ("EGE") the city's manager of Duluth Steam District No. 1, has recommended a modification thereof to include seasonal consumption charges rates in the calculation of customer consumption charges and a minimum capacity charge for steam service provided; and

WHEREAS, the city has determined that such changes are reasonable and necessary to defray the costs of operating the subject system.

RESOLVED, that pursuant to Section 2.3.7 of the energy system management services agreement between the city and EGE, the city council hereby approves the rate calculation on file in the office of the city clerk as Public Document No. 15-0126-20, effective on and after January 1, 2015.

Resolution 15-0062 was unanimously adopted.
Approved January 26, 2015
DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to accept an award from the United States department of agriculture, forest service law enforcement and investigations, in the amount of \$1,500 to be used for approved equipment reimbursement to the city of Duluth for the Lake Superior drug and violent crime task force and authorizing city officials to execute any documents necessary to accept said award, substantially the same as that on file in the office of the city clerk as Public Document No. 15-0126-21, funds to be deposited in Fund 215-200-2285-4209-02 (Duluth police grant programs, police, forest service, direct federal grants operation), and other expenses to be paid from Fund 215-200-2285-5241 (Duluth police grant programs, police, forest service, small equipment).

Resolution 15-0005 was unanimously adopted.
Approved January 26, 2015
DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with St. Louis County, by and through its sheriff's office to share the cost of providing a public safety grant coordinator for the year 2015 in the amount of \$20,935, said agreement to be substantially in the form of Public Document No. 15-0126-22 on file in the office of the city clerk,

reimbursement funds payable to Fund No. 110-160-1610-4260 (general, police, administration and investigation - St. Louis County).

Resolution 15-0043 was unanimously adopted.

Approved January 26, 2015

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to execute an agreement with Diversion Solutions, LLC, substantially the same as that on file in the office of the city clerk as Public Document No. 15-0126-23, for the administration of the driving diversion pilot program for the city of Duluth, said program established by Laws of Minnesota 2009, c. 59, art. 3, section 4, and recently extended by Laws of Minnesota 2013, c. 127, sec. 60. Funds generated by the program and collected by Diversion Solutions, LLC, pursuant to the terms of the agreement shall be deposited in Fund 110-110-1104-4644 (general, legislative and executive, attorney and human rights, miscellaneous fees).

Resolution 15-0049 was unanimously adopted.

Approved January 26, 2015

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into a three year agreement substantially in the form of that on file in the office of the city clerk as Public Document No. 15-0126-24, with Twin Ports Boxing Club for the use of the Lincoln Park Community Center for operating a boxing and fitness program for the city's adults and youth with rent payments payable to Fund 110-121-1222-4622 (general, public administration, facilities management, rent of buildings).

Resolution 15-0047 was unanimously adopted.

Approved January 26, 2015

DON NESS, Mayor

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RESOLVED, that the city's chief administrative officer is hereby authorized to apply to Minnesota department of natural resources (MnDNR) for funding through the Minnesota Lake Superior coastal program on behalf of the city.

FURTHER RESOLVED, that the city of Duluth has the legal authority to apply for the money, and the financial, technical and managerial capacity to ensure proper construction, operation and maintenance of the project for no less than 20 years.

FURTHER RESOLVED, that if the city of Duluth is awarded aforesaid grant, the city of Duluth agrees to accept the grant award and the proper city officials are authorized to enter into a grant agreement with the MnDNR.

FURTHER RESOLVED, that the city of Duluth estimates the total project cost to be \$250,000, including the grant amount of \$100,000 (deposited in Capital Improvements-450, Finance-030, State of Minnesota-4220-01, Project HANDHTAX-HH2015-1502); matching funds as follows: \$150,000 from the half and half tourism tax (Capital Improvements-450, Finance-030, Improvements Other Than Buildings-5530, Project HANDHTAX-HH2015-1502).

Resolution 15-0053 was unanimously adopted.

Approved January 26, 2015

DON NESS, Mayor

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RESOLVED, that the city's chief administrative officer is hereby authorized to apply to Minnesota department of natural resources (MnDNR) for funding through the conservation partners legacy metro grant on behalf of the city.

FURTHER RESOLVED, that the city of Duluth has the legal authority to apply for the money, and the financial, technical and managerial capacity to ensure proper construction, operation and maintenance of the project for no less than 20 years.

FURTHER RESOLVED, that if the city of Duluth is awarded aforesaid grant, the city of Duluth agrees to accept the grant award and the proper city officials are authorized to enter into a grant agreement with the MnDNR.

FURTHER RESOLVED, that the city of Duluth estimates the total project cost to be \$575,000 including the grant amount of \$400,000 (to be deposited in Capital Improvements-450, Finance-030, State of Minnesota-4220-01, Project HANDHTAX-HH2015-1501); matching funds as follows: \$175,000 from the half and half tourism tax (Capital Improvements-450, Finance-030, Improvements Other Than Buildings-5530, Project HANDHTAX-HH2015-1501).

Resolution 15-0054 was unanimously adopted.

Approved January 26, 2015

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to accept the donation of unconditional monetary gifts from the Duluth Library Foundation during 2015 and 2016 for use by the Duluth public library, said gifts to be deposited in library special gifts, Miscellaneous Fund 240-300-SG80-4660.

FURTHER RESOLVED, that the city hereby thanks the Duluth Library Foundation for their generous gifts and continued support.

Resolution 15-0057 was unanimously adopted.

Approved January 26, 2015

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to accept the donation of unconditional monetary gifts from the Friends of the Duluth Public Library during 2015 and 2016 for the use by the Duluth public library, said gifts to be deposited in library special gifts, Friends of Library Fund 240-300-SG50-4660.

FURTHER RESOLVED, that the city hereby thanks the Friends of the Duluth Public Library for their generous gifts and continued support.

Resolution 15-0058 was unanimously adopted.

Approved January 26, 2015

DON NESS, Mayor

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RESOLVED, that the city of Duluth (the "city") act as the legal sponsor for project contained in Laws of Minnesota, Chapter 295, Section 10, Subdivision 4, entitled Duluth-Spirit Mountain Recreation Area.

FURTHER RESOLVED, that the city has the legal authority to receive financial assistance and the institutional, managerial and financial capability to ensure adequate project administration.

FURTHER RESOLVED, that the sources and amounts of the local match identified in the development proposal are committed to the project.

FURTHER RESOLVED, that the city has not violated any federal, state or local laws pertaining to fraud, bribery, graft, kickbacks, collusion, conflict of interest or other unlawful or corrupt practice.

FURTHER RESOLVED, that upon approval of its development proposal by the state, the city may enter into an agreement with the state of Minnesota for the above-referenced project, and that the city certifies that it will comply with all applicable laws and regulations as stated in all contract agreements.

FURTHER RESOLVED, that the proper city officials are hereby authorized to execute such agreements as are necessary to implement the project on behalf of the city.

Resolution 15-0059 was unanimously adopted.

Approved January 26, 2015

DON NESS, Mayor

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The following resolutions were also considered:

Resolution 15-0039, confirming assessment roll levied to defray the assessable portions of the sanitary sewer extension at Lakeview Avenue, was introduced by Councilor Julsrud.

Councilor Fosle moved to table the resolution, which motion was seconded and carried unanimously.

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Resolution 15-0055, authorizing an agreement with Duluth Cross Country Ski Club for the development, management and operation of the Lakeview Sports Chalet, was introduced by Councilor Sipress.

The rules were suspended upon a unanimous vote to hear from a speaker on the resolution.

Dave Johnson spoke in support of the resolution.

Resolution 15-0055 was adopted as follows:

RESOLVED, that the proper city officials are hereby authorized to enter into a ten year agreement substantially in the form of that on file in the office of the city clerk as Public Document No. 15-0126-25, with Duluth Cross Country Ski Club for the development, management and operation of the city's Lakeview Sports Chalet in Lester Park.

Resolution 15-0055 was unanimously adopted.

Approved January 26, 2015

DON NESS, Mayor

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RESOLVED, that pursuant to Resolution 10-0229, the city council hereby approves the loan agreement, authorized by Resolution No. 14D-40 of the Duluth economic development authority ("DEDA"), with Sherman Associates, Inc., authorizing the loan of up to \$300,000 to fund a portion of the costs associated with designing those elements of the NorShor Theatre development, including the skywalk, which are eligible for funding with tax increment proceeds.

Resolution 15-0044 was adopted upon the following vote:

Yeas: Councilors Filipovich, Fosle, Gardner, Julsrud, Krug, Russ, Sipress and President Larson -- 8

Nays: Councilor Hanson -- 1

Approved January 26, 2015

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into an agreement substantially in the form on file in the office of the city clerk as Public Document No. 15-0126-26, with the Historic Union Depot, Inc. (Depot), in an amount not to exceed \$176,800, payable from Tourism Taxes 258, Finance 030, Tourism Tax Allocation 5436, Historic Union Depot 03.

Resolution 15-0040 was adopted upon the following vote:

Yeas: Councilors Filipovich, Gardner, Hanson, Julsrud, Krug, Russ, Sipress and President Larson -- 8

Nays: Councilor Fosle -- 1

Approved January 26, 2015

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into an agreement, substantially in the form on file in the office of the city clerk as Public Document No. 15-0126-27, with Duluth Sister Cities International, Inc. (DSCI), in an amount not to exceed \$40,000, payable from Tourism Taxes 258, Finance 030, Tourism Tax Allocation 5436, Sister Cities 05.

Resolution 15-0042 was adopted upon the following vote:

Yeas: Councilors Filipovich, Gardner, Hanson, Julsrud, Krug, Russ, Sipress and President Larson -- 8

Nays: Councilor Fosle -- 1

Approved January 26, 2015

DON NESS, Mayor

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Resolution 15-0046, approving budget and cost sharing formula of Minneapolis-Duluth/Superior and passenger rail alliance and authorizing payment of city's cost share of \$9,750, was introduced by Councilor Filipovich.

The rules were suspended upon a unanimous vote to hear from a speaker on the resolution.

Ken Buehler spoke in support of the resolution.

Resolution 15-0046 was adopted as follows:

RESOLVED, that the city council hereby approves the 2015 budget and cost sharing formula for the Minneapolis-Duluth/Superior passenger rail alliance, a copy of which is on file in the office of the city clerk as Public Document No. 15-0126-28, as required by paragraph V-E of the joint powers agreement on file as City Agreement No. 20580.

FURTHER RESOLVED, that the proper city officials are hereby authorized to pay the city's share of the rail alliance's 2015 budget in the amount of \$9,750, in conformance with Section VI-A of City Agreement No. 20580, said sum to be payable from Tourism Tax Fund 258, Finance 030, Tourism Tax Allocation 5436, Rail Alliance 09.

Resolution 15-0046 was adopted upon the following vote:

Yeas: Councilors Filipovich, Gardner, Julsrud, Krug, Russ, Sipress and President Larson -- 7

Nays: Councilors Fosle and Hanson -- 2

Approved January 26, 2015

DON NESS, Mayor

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RESOLVED, that the proposed specifications for the new civil service classification of construction services combination inspector, which were approved by the civil service board on January 6, 2015, and which are filed with the city clerk as Public Document No. 15-0126-29, are approved; that said classification shall be subject to the city's collective bargaining agreement with its basic unit employees; and that pay range for said classification shall be Range 32, \$4,316 to \$5,087 per month. The proper city officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.

Resolution 15-0063 was adopted upon the following vote:

Yeas: Councilors Filipovich, Gardner, Hanson, Julsrud, Krug, Russ, Sipress and President Larson -- 8

Nays: Councilor Fosle -- 1

Approved January 26, 2015

DON NESS, Mayor

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Resolution 15-0068, by Councilor Gardner, asking St. Louis County and the state of Minnesota legislature to resolve tax forfeiture issues so that abutting landowners on Park Point have the right of first refusal to buy select tax forfeited land, was introduced.

The rules were suspended upon a unanimous vote to hear from speakers on the resolution.

Dulce Proud, David Johnson, Elizabeth Hooper and Thomas Crook presented pictures (Public Document No. 15-0126-11) and spoke in support of the resolution.

Gary Eckenberg, St. Louis County deputy administrator, commented on the county's position on this issue.

Councilor Gardner moved to amend the second paragraph of the resolution to add the phrase "and Lots 85 through 119 (odd numbered lots) Upper Duluth St. Louis Avenue on file in County Board File No. 59938" after the file number "59937A," which motion was seconded and carried unanimously.

Resolution 15-0068, as amended, was adopted as follows:

BY COUNCILOR GARDNER:

WHEREAS, the state of Minnesota owns tax forfeit land in St. Louis County and the land is managed by county officials; and

WHEREAS, tax forfeited parcels described as Lots 203 and 219 Upper Duluth Minnesota Avenue, and Lots 11 through 39 and Lot 45 (odd numbered lots) Upper Duluth St. Louis Avenue on file in County Board File No. 59937A and Lots 85 through 119 (odd numbered lots) Upper Duluth St. Louis Avenue on file in County Board File No. 59938 ("Park Point parcels") have been jointly identified by the city of Duluth and St. Louis County as parcels which should be offered up for sale; and

WHEREAS, abutting land owners to the Park Point parcels have requested that the county and state provide land owners with the opportunity of first refusal on the Park Point parcels before that land is sold at public auction; and

WHEREAS, the Duluth City Council supports the sale of the land to the abutting land owners.

THEREFORE, BE IT RESOLVED, that the city council requests that state and St. Louis County work expeditiously to resolve the issues hindering the sale of tax forfeit land on Park Point to abutting land owners.

Resolution 15-0068, as amended, was unanimously adopted.

Approved January 26, 2015

DON NESS, Mayor

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WHEREAS, Ever-Green Energy, LLC, ("EGE") the city's manager of Duluth Steam District No. 1, has recommended a modification of the district heating hot water rate for customers connected to the eastern Canal Park hot water system to a rate of \$6.51 per million BTUs for thermal energy service; and

WHEREAS, the city has determined that such rate is reasonable and necessary to defray the costs of operating the subject system.

RESOLVED, that pursuant to Section 2.3.7 of the energy system management services agreement between the city and EGE, the city council hereby approves the rate of \$6.51 per million BTUs for thermal energy services provided to customers connected to the eastern Canal Park hot water system, effective on and after January 1, 2015.

Resolution 15-0061 was adopted upon the following vote:

Yeas: Councilors Filipovich, Fosle, Gardner, Julsrud, Krug, Russ, Sipress and President Larson -- 8

Nays: Councilor Hanson -- 1

Approved January 26, 2015

DON NESS, Mayor

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

BY COUNCILOR GARDNER

15-007 - AN ORDINANCE AMENDING SECTION 29A-32.1 OF DULUTH CITY CODE, 1959, AS AMENDED, TO ALLOW OWNER OCCUPIED ONE-FAMILY DWELLINGS TO BE LICENCED AS SINGLE TENANT RENTAL UNITS WITHOUT PAYMENT OF A CONVERSION FEE IF THE OWNER-OCCUPANT RENTS ONLY TO ONE PERSON.

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INTRODUCED BY COUNCILOR JULSRUD

15-008 - AN ORDINANCE AMENDING CHAPTER 48 OF THE DULUTH CITY CODE, 1959, AS AMENDED, UPDATING LANGUAGE RELATED TO UTILITY SERVICE BILLING AND COLLECTION, DEPARTMENT SERVICES AND AUTHORIZED RESIDENTIAL GAS CONNECTIONS.

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The following entitled ordinances were read for the second time:

INTRODUCED BY COUNCILOR FILIPOVICH

14-077 (10348) - AN ORDINANCE AMENDING SECTIONS 41-24 AND 41-32 OF DULUTH CITY CODE, 1959, AS AMENDED, TO INCREASE THE MINIMUM CONTRACT AMOUNT IN SOLE SOURCE CONTRACTS REQUIRING CITY COUNCIL APPROVAL FROM MORE THAN \$25,000 TO MORE THAN ~~\$50,000~~ 40,000 AND ALLOWING THE PURCHASING AGENT, WITH THE APPROVAL OF THE CHIEF ADMINISTRATIVE OFFICER, TO AUTHORIZE THE AWARD OF NONCOMPETITIVE BID CONTRACTS OF ~~\$50,000~~ 40,000 OR LESS.

Councilor Filipovich moved passage of the ordinance, as amended, and the same was adopted upon the following vote:

Yeas: Councilors Filipovich, Fosle, Gardner, Julsrud, Krug, Russ, Sipress and President Larson -- 8

Nays: Councilor Hanson -- 1

- - -

INTRODUCED BY COUNCILOR RUSS

15-001 (10349) - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM THE INDUSTRIAL-WATERFRONT (I-W) TO PARKS AND OPEN SPACE (P-1) THE PROPERTY LOCATED ON PARK POINT, SOUTH OF SAINT LOUIS AVENUE, TO THE SHORELINE OF THE DULUTH HARBOR BASIN, FROM 13TH STREET SOUTH TO 15TH STREET.

Councilor Russ moved passage of the ordinance and the same was adopted upon a unanimous vote.

- - -

INTRODUCED BY COUNCILOR RUSS

15-002 (10350) - AN ORDINANCE AUTHORIZING THE CONVEYANCE OF CERTAIN PROPERTY WITHIN THE CITY OF DULUTH TO THE STATE OF MINNESOTA, DEPARTMENT OF TRANSPORTATION, FOR \$3,000.

Councilor Russ moved passage of the ordinance and the same was adopted upon a unanimous vote.

- - -

INTRODUCED BY COUNCILOR RUSS

15-003 (10351) - AN ORDINANCE AMENDING ORDINANCE 10283 GRANTING CONCURRENT USE PERMIT TO THE DULUTH TRANSIT AUTHORITY FOR A SKYWALK BRIDGE PERTAINING TO CONTINUING USE.

Councilor Russ moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Filipovich, Fosle, Gardner, Julsrud, Krug, Russ, Sipress and President Larson -- 8

Nays: None -- 0

Abstention: Councilor Hanson -- 1

- - -

INTRODUCED BY COUNCILOR RUSS

15-005 (10352) - AN ORDINANCE AMENDING ORDINANCE 10208 GRANTING CONCURRENT USE PERMIT TO THE DULUTH TRANSIT AUTHORITY FOR A SKYWALK AND CANOPY OVER WEST MICHIGAN STREET BETWEEN SECOND AND THIRD AVENUES WEST PERTAINING TO CONTINUING USE.

Councilor Russ moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Filipovich, Fosle, Gardner, Julsrud, Krug, Russ, Sipress and President Larson -- 8

Nays: None -- 0

Abstention: Councilor Hanson -- 1

- - -

The meeting was adjourned at 8:50 p.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 10348

AN ORDINANCE AMENDING SECTIONS 41-24 AND 41-32 OF DULUTH CITY CODE, 1959, AS AMENDED, TO INCREASE THE MINIMUM CONTRACT AMOUNT IN SOLE SOURCE CONTRACTS REQUIRING CITY COUNCIL APPROVAL FROM MORE THAN \$25,000 TO MORE THAN \$40,000 AND ALLOWING THE PURCHASING AGENT, WITH THE APPROVAL OF THE CHIEF ADMINISTRATIVE OFFICER, TO AUTHORIZE THE AWARD OF NONCOMPETITIVE BID CONTRACTS OF \$40,000 OR LESS.

The city of Duluth does ordain:

Section 1. That Section 41-24 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 41-24. Contract procedure--contracts of \$100,000 or less.

Purchases of supplies and contractual services and all sales of personal property involving \$100,000 or less shall be made pursuant to the provisions of this section either by formal written contract or upon a properly executed purchase or sale order, whichever method is deemed appropriate.

(a) Bidding procedures;

(1) Contracts between \$25,000 and \$100,000. If the amount of the contract is estimated to exceed \$25,000 but not to exceed \$100,000 the purchasing agent shall make such purchases or sales by direct negotiation, obtaining two or more quotations when possible. All quotations obtained shall be kept on file for a period of at least one year after receipt thereof;

(2) Contracts of \$25,000 or less. If the amount of the contract is estimated to be \$25,000 or less, the purchasing agent may, in his discretion, make the purchase or sale either upon quotation or in the open market. If the contract is made upon quotation, it shall be based, so far as practicable, on at least two quotations, which shall be kept on file for a period of at least one year after receipt thereof;

(3) Purchases of \$5,000 or less. In the case of purchases estimated to be \$5,000 or less, department heads or their designees are authorized to make such purchases without the approval of the purchasing agent. Such purchases may be made either upon quotation or in the open market. If such purchases are made upon quotation, they shall be based, so far as practicable, on at least two quotations, which shall be kept on file for a period of at least one year after receipt thereof;

(b) Rejection of bids. The purchasing agent or other person authorized to make purchases shall have the authority to reject all bids, parts of all bids or all bids for any one or more supplies or contractual services included in the proposed contract when the public interest will be served thereby. The purchasing agent or other person authorized to make purchases may reject the bid of a contractor who is in default on the payment of taxes, licenses or other money due the city;

(c) Award of contract. The purchasing agent or, subject to the limitations of paragraph (a)(3) of this Section, other persons authorized to make purchases shall have authority to award contracts within the purview of this Section, provided that contracts for more than \$40,000 with sole source providers or for which only one complete responsive bid was received shall be awarded only after authorization by the city council;

(d) Performance bonds. The provisions regarding performance bonds contained in Section 41-23 of this Code are hereby incorporated into this Section.

Section 2. That Section 41-32 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 41-32. Contracts not subject to competitive bidding process.

The purchasing agent, with the approval of the chief administrative officer, is authorized to award contracts not subject to the competitive bidding process that involve an expenditure of \$40,000 or less.

Section 3. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: March 1, 2015)

Councilor Filipovich moved passage of the ordinance, as amended, and the same was adopted upon the following vote:

Yeas: Councilors Filipovich, Fosle, Gardner, Julsrud, Krug, Russ, Sipress and President Larson -- 8

Nays: Councilor Hanson -- 1

ATTEST:
JEFFREY J. COX, City Clerk

Passed January 26, 2015
Approved January 26, 2015
DON NESS, Mayor

- - -

ORDINANCE NO. 10349

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM THE INDUSTRIAL-WATERFRONT (I-W) TO PARKS AND OPEN SPACE (P-1) THE PROPERTY LOCATED ON PARK POINT, SOUTH OF SAINT LOUIS AVENUE,

TO THE SHORELINE OF THE DULUTH HARBOR BASIN, FROM
13TH STREET SOUTH TO 15TH STREET.

The city of Duluth does ordain:

Section 1. That the subject property located on Park Point, south of Saint Louis Avenue, to the shoreline of the Duluth Harbor Basin, from 13th Street South to 15th Street South and as more particularly described as follows:

That part of even-numbered Lots 88 through 120, Argyle Street (13th Street South), Dunleith Street (14th Street South) and Saint Louis Avenue, of Upper Duluth Saint Louis Avenue, according to the recorded plat thereof, described as follows:

Beginning at the intersection of said 13th Street South and Saint Louis Avenue;

Thence south along the center line of Saint Louis Avenue to the easterly extension of the south line of said Lot 88;

Thence west along said south line of Lot 88 and its extension to the shoreline of Duluth Harbor Basin;

Thence north along said shoreline to the westerly extension of the centerline of said 13th Street South;

Thence east along said centerline of 13th Street South and its extension to the point of beginning;

be reclassified from Industrial-Waterfront (I-W), to Parks and Open Space (P-1), and that the official zoning map of the city of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:



(Ref. File No. 14-148)

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: March 1, 2015)

Councilor Russ moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Filipovich, Fosle, Gardner, Hanson, Julsrud, Krug, Russ, Sipress and President Larson -- 9

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed January 26, 2015
Approved January 26, 2015
DON NESS, Mayor

- - -

ORDINANCE NO. 10350

AN ORDINANCE AUTHORIZING THE CONVEYANCE OF CERTAIN PROPERTY WITHIN THE CITY OF DULUTH TO THE STATE OF MINNESOTA, DEPARTMENT OF TRANSPORTATION, FOR \$3,000.

The city of Duluth does ordain:

Section 1.

Pursuant to Section 2-176(a) of the Duluth City Code, as amended (the "Code"), the city council stated its intention to sell or convey certain property as set forth in Resolution 14-0609.

Pursuant to Section 2-177.3 of the Code, the city council finds that the conveyance to MNDOT of certain property described in Public Document No. 15-0126-30 (the "property") to be utilized by MNDOT in its multi-million dollar improvement project to Grand Avenue/Highway 23 is in the best interest of the citizens of the city and exceed the needs of the city to retain the property.

Pursuant to Section 2-176(b) of the Code, the city's planning department has reviewed the proposed conveyance of the property for conformity to the city's comprehensive plan and reported that the conveyance of the property to MNDOT conforms with said comprehensive plan.

Pursuant to Section 2-176(c) of the Code, MNDOT's certified general real estate appraiser has provided a written estimate of the market value of the property to be \$3,000.

Section 2. That the proper city officials are hereby authorized to execute deeds, easements and all other documents necessary to effectuate the conveyance of the property to MNDOT for the sum of \$3,000, said sum to be payable into General Fund 110, Department 700, Division 1420, Revenue Source 4640.

Section 3. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: March 1, 2015)

Councilor Russ moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Filipovich, Fosle, Gardner, Hanson, Julsrud, Krug, Russ, Sipress and President Larson -- 9

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed January 26, 2015
Approved January 26, 2015
DON NESS, Mayor

- - -

ORDINANCE NO. 10351

AN ORDINANCE AMENDING ORDINANCE 10283 GRANTING CONCURRENT USE PERMIT TO THE DULUTH TRANSIT AUTHORITY FOR A SKYWALK BRIDGE PERTAINING TO CONTINUING USE.

The city of Duluth does ordain:

Section 1. That Section 3 of Ordinance No. 10283 is hereby amended to read as follows:

Section 3. Said permit granted under this ordinance may be terminated at any time when and if the city of Duluth determines to use the area occupied by said permittees for any purpose in accordance with the duly dedicated public easement or other lawful use except that the city shall not have the right hereunder to terminate this ordinance until after January 31, 2050, unless prior written consent and authorization is obtained from the Commissioner of Minnesota management and budget, and until that date shall allow permittees to maintain continuing control and use of the improvements constructed on the property subject of this ordinance as described in permittee's state of good repair grant (FTA Grant #MN-04-0043) and state go assisted property (MN/DOT Contract #03806). Unless a shorter period is necessitated by emergency circumstances, or the violation of the conditions set forth in this ordinance but in no event prior to January 31, 2050, giving the permittees six months' written notice by resolution of the council of the city of Duluth to the last known address of the permittees shall be sufficient notice of termination.

Section 2. That Section 5 of Ordinance No. 10283 is hereby amended to read as follows:

Section 5. By the acceptance of the terms of this ordinance as aforesaid, the permittees hereby agree to maintain the improvements constructed within the areas permitted hereunder in conformance with the property management standards of 49 C.F.R. Section 18.31 through 18.34 including amendments thereto and with other applicable federal regulations and directives, to maintain said improvements and said areas in good operating order and in compliance with any applicable federal and state laws and regulations and in accordance with applicable federal and state directives as may be issued, to save harmless and defend and indemnify the city of Duluth against any claims or demand which may arise against the city of Duluth by reason of any act or omission of the permittees including but not limited to any failure to fulfill any of the obligations of permittees as set forth in the Section, and agree that such skywalk shall be so constructed and at all times maintained so as in no way to interfere with or damage any sewer, water mains, gas mains, pipes, conduits or other public utilities now or to be hereinafter located in any part of said West Michigan Street and agree that the city of Duluth shall not be liable for damage caused to such skywalk, while the city is engaged in making repairs to public utilities provided that the city exercises reasonable care to avoid such damage, and agree to pay to the city of Duluth all extra costs of installation of any such sewers, gas mains, water mains, pipes, conduits or other public utilities made necessary by the presence of such skywalk in said West Michigan Street.

Section 3. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: March 1, 2015)

Councilor Russ moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Filipovich, Fosle, Gardner, Julsrud, Krug, Russ, Sipress and President Larson -- 8

Nays: None -- 0

Abstention: Councilor Hanson -- 1

ATTEST:
JEFFREY J. COX, City Clerk

Passed January 26, 2015
Approved January 26, 2015
DON NESS, Mayor

ORDINANCE NO. 10352

AN ORDINANCE AMENDING ORDINANCE 10208 GRANTING CONCURRENT USE PERMIT TO THE DULUTH TRANSIT AUTHORITY FOR A SKYWALK AND CANOPY OVER WEST MICHIGAN STREET BETWEEN SECOND AND THIRD AVENUES WEST PERTAINING TO CONTINUING USE.

The city of Duluth does ordain:

Section 1. That Section 3 of Ordinance No. 10283 is hereby amended to read as follows:

Section 3. Said permit granted under this ordinance may be terminated at any time when and if the city of Duluth determines to use the area occupied by said permittees for any purpose in accordance with the duly dedicated public easement or other lawful use except that the city shall not have the right hereunder to terminate this ordinance until after January 31, 2050, unless prior written consent and authorization is obtained from the commissioner of Minnesota management and budget, and until that date shall allow permittees to maintain continuing control and use of the improvements constructed on the property subject of this ordinance as described in permittee's state of good repair grant (FTA Grant #MN-04-0043) and state go assisted property (MN/DOT Contract #03806). Unless a shorter period is necessitated by emergency circumstances, or the violation of the conditions set forth in this ordinance but in no event prior to January 31, 2050, giving the permittees six months' written notice by resolution of the council of the city of Duluth to the last known address of the permittees shall be sufficient notice of termination.

Section 2. That Section 5 of Ordinance No. 10283 is hereby amended to read as follows:

Section 5. By the acceptance of the terms of this ordinance as aforesaid, the permittees hereby agree to maintain the improvements constructed within the areas permitted hereunder in conformance with the property management standards of 49 C.F.R. Section 18.31 through 18.34 including amendments thereto and with other applicable federal regulations and directives, to maintain said improvements and said areas in good operating order and in compliance with any applicable federal and state laws and regulations and in accordance with applicable federal and state directives as may be issued, to save harmless and defend and indemnify the city of Duluth against any claims or demand which may arise against the city of Duluth by reason of any act or omission of the permittees including but not limited to any failure to fulfill any of the obligations of permittees as set forth in the Section, and agree that such skywalk shall be so constructed and at all times maintained so as in no way to interfere with or damage any sewer, water mains, gas mains, pipes, conduits or other public utilities now or to be hereinafter located in any part of said West Michigan Street and agree that the city of Duluth shall not be liable for damage caused to such

skywalk, while the city is engaged in making repairs to public utilities provided that the city exercises reasonable care to avoid such damage, and agree to pay to the city of Duluth all extra costs of installation of any such sewers, gas mains, water mains, pipes, conduits or other public utilities made necessary by the presence of such skywalk in said West Michigan Street.

Section 3. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: March 1, 2015)

Councilor Russ moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Filipovich, Fosle, Gardner, Hanson, Julsrud, Krug, Russ, Sipress and President Larson -- 8

Nays: None -- 0

Abstention: Councilor Hanson -- 1

ATTEST:
JEFFREY J. COX, City Clerk

Passed January 26, 2015
Approved January 26, 2015
DON NESS, Mayor

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